

DAVID CHIU, State Bar #189542
City Attorney

YVONNE R. MERÉ, SBN 173594
Chief Deputy City Attorney

WAYNE SNODGRASS, State Bar #148137
TARA M. STEELEY, State Bar #231775
THOMAS S. LAKRITZ, State Bar #161234
JOHN H. GEORGE, State Bar #292332
KAITLYN M. MURPHY, State Bar #293309
Deputy City Attorneys
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Telephone: (415) 554-4655 (Steeley)
(145) 554-4628 (Lakritz)
(415) 554-4223 (George)
(415) 554-6762 (Murphy)
Facsimile: (415) 554-4699
E-Mail: tara.steeley@sfcityatty.org
tom.lakritz@sfcityatty.org
john.george@sfcityatty.org
kaitlyn.murphy@sfcityatty.org

Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANE ROE, an individual; MARY ROE, an individual; SUSAN ROE, an individual; JOHN ROE, an individual; BARBARA ROE, an individual; PHOENIX HOTEL SF, LLC, a California limited liability company; FUNKY FUN, LLC, a California limited liability company; and 2930 EL CAMINO, LLC, a California limited liability company,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO, a California public entity,

Defendant.

Case No. 4:24-cv-01562-JST

SUPPLEMENTAL REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS

Hearing Date: July 18, 2024
Time: 2:00 p.m.
Place: Oakland Courthouse,
Courtroom 6 – 2nd Floor
1301 Clay Street, Oakland,
CA 94612

Trial Date: None set

1 In reviewing a motion to dismiss, courts may take judicial notice of a fact that is “not subject to
 2 reasonable dispute,” i.e., that is “generally known” or “can be accurately and readily determined from
 3 sources whose accuracy cannot reasonably be questioned.” *Kang v. PayPal Holdings, Inc.*, 620 F.
 4 Supp.3d 884, 895 (N.D. Cal. 2022); see also Fed. R. Evid. 201(b). “[A] court may take judicial notice
 5 of ‘matters of public record.’ ” *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001).

6 Accordingly, Pursuant to Federal Rule of Evidence 201 and supporting caselaw, Defendant
 7 City and County of San Francisco (“City”) requests that the Court take judicial notice of the following
 8 documents filed in support of the City’s motion to dismiss.

9 1. Attached hereto and marked as Exhibit A is a true and correct copy of the March 27,
 10 2024 Sunshine Ordinance/Public Records Act Request addressed to Mayor London Breed.

11 2. Attached hereto and marked as Exhibit B is a true and correct copy of the March 27,
 12 2024 Sunshine Ordinance/Public Records Act Request addressed to the San Francisco Department of
 13 Public Health.

14 3. Attached hereto and marked as Exhibit C is a true and correct copy of the of the March
 15 27, 2024 Sunshine Ordinance/Public Records Act Request addressed to the San Francisco Department
 16 of Homelessness and Supportive Housing.

17
 18 Dated: May 31, 2024

19 DAVID CHIU
 20 City Attorney
 21 YVONNE R. MERÉ
 22 Chief Deputy City Attorney
 23 WAYNE SNODGRASS
 24 TARA M. STEELEY
 25 THOMAS S. LAKRITZ
 26 JOHN H. GEORGE
 27 KAITLYN M. MURPHY
 28 Deputy City Attorneys

By: /s/ Thomas S. Lakritz
 THOMAS S. LAKRITZ

Attorneys for Defendant
 CITY AND COUNTY OF SAN FRANCISCO

Exhibit A



Matthew D. Davis
mdavis@walkuplawoffice.com

March 27, 2024

Via Electronic Mail and First Class Mail (MayorLondonBreed@sfgov.org)

City Hall
1 Dr Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102

Attention: Public Records Act Officer

Re: *Sunshine Ordinance/Public Records Act Request*

Dear Sir/Madam:

We write to request that your department produce public records pursuant to the San Francisco Sunshine Ordinance, SF Administrative Code – Chapter 67, and the California Public Records Act, Government Code Sections 6250-6276.48.

We demand all records, including, without limitation, electronic records, electronically stored information, paper documents, memoranda, letters, correspondence, contracts, requests for proposals, bids, emails, and text messages, that fall into the following categories:

1. All records that constitute, reflect or describe the policies, practices, guidelines and procedures that were followed in the operation of the Tenderloin Linkage Center (as used in these requests, the term “Tenderloin Linkage Center” refers to that facility that your department also called the “Tenderloin Center,” see <https://www.sf.gov/information/tenderloin-center>).
2. All records that have as any part of their subject matter the use of illegal narcotics at the Tenderloin Linkage Center.
3. All records that have as any part of their subject matter the use of fentanyl at the Tenderloin Linkage Center.
4. All records that have as any part of their subject matter any payment to, contract with, or agreement with any vendor,

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March 27, 2024
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nonprofit, person or entity with respect to operations and activities at the Tenderloin Linkage Center.

5. All records that have as any part of their subject matter any invoice from, or payment to, any vendor, nonprofit or other person or entity that was related in any way to operations or activities at the Tenderloin Linkage Center.
6. All records that have as any part of their subject matter the names of the employee of the City and County of San Francisco who, at any time, was in charge of operations at the Tenderloin Linkage Center.
7. All records that have as any part of their subject matter the names of any employee of the City and County of San Francisco who, at any time, worked at the Tenderloin Linkage Center.
8. All records that have as any part of their subject matter the names of anyone who, at any time, worked at the Tenderloin Linkage Center.
9. All documents that have as any part of their subject matter supervised drug or narcotic use at the Tenderloin Linkage Center.
10. All documents that have as any part of their subject matter supervised fentanyl use at the Tenderloin Linkage Center.
11. All documents that have as any part of their subject matter the operation of a “safe consumption site” at the Tenderloin Linkage Center.
12. All documents that have as any part of their subject matter the operation of a “safe injection site” at the Tenderloin Linkage Center.
13. All documents that have as any part of their subject matter the distribution of “harm reduction kits” at the Tenderloin Linkage Center.

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Page 3

14. All documents that have as any part of their subject matter the distribution of syringes or hypodermic needles at the Tenderloin Linkage Center.
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16. All documents that have as any part of their subject matter the distribution of “safer smoking kits” at the Tenderloin Linkage Center.
17. All documents that have as any part of their subject matter the sale or distribution of drugs or narcotics at the Tenderloin Linkage Center.
18. All documents that have as any part of their subject matter reports of the sale or distribution of drugs or narcotics at the Tenderloin Linkage Center.
19. All records that have as any part of their subject matter any policy, practice or guideline of allowing or permitting visitors to the Tenderloin Linkage Center to use drugs or narcotics while at that location.
20. All documents that have as any part of their subject matter any practice, policy, guideline or procedure with respect to members of the San Francisco Police Department, or any other law enforcement agency, having access or being able to enter to the Tenderloin Linkage Center, including, without limitation, any record indicating that police officers were not allowed to access the premises or were discouraged from entering the premises.
21. Any records that reflect any communication with the San Francisco Police Department about the Tenderloin Linkage Center.
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23. Any records that reflect any report or suspicion of criminal activity occurring at the Tenderloin Linkage Center.

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24. Any records that have as any part of their subject matter activities that occurred on Willow Street in San Francisco on August 31, 2023, including, without limitation, the operation of a narcotics ingestion site or “safe consumption site” on Willow Street.
25. Any records that refer to or reflect any discussion or analysis of the legality or illegality of operating a site for the ingestion of illegal narcotics.
26. Any records that refer to or reflect any discussion or analysis of the legality or illegality of operating a “safe consumption site.”
27. Any records that refer to or reflect any discussion or analysis of the criminal penalties that can be imposed on a person who is involved in the operation of a site for the ingestion of illegal narcotics.
28. Any records that refer to or reflect any discussion or analysis of the criminal penalties that can be imposed on a person who is involved in the operation of a “safe consumption site.”
29. Any records that refer to or reflect any discussion or analysis of 21 U.S.C. § 856, including, without limitation, any memoranda or communication about this statute and the operation of a supervised drug injection site.
30. Any records that refer to or reflect any discussion or analysis of California Health & Safety Code § 11365, including, without limitation, any memoranda or communication about this statute and the operation of a supervised drug injection site.
31. Any records that refer to or reflect any discussion or analysis of California Health & Safety Code § 11366, including, without limitation, any memoranda or communication about this statute and the operation of a supervised drug injection site or “safe consumption site.”
32. All records that have as any part of their subject matter any communication with Healthright 360 about the Tenderloin Linkage Center.

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33. All records that have as any part of their subject matter any communication with Healthright 360 about “safe consumption sites.”
34. All records that have as any part of their subject matter any communication with Vitka Eisen about the Tenderloin Linkage Center.
35. All records that have as any part of their subject matter any communication with Vitka Eisen about “safe consumption sites.”
36. All documents that have as any part of their subject matter supervised drug or narcotic use in the Tenderloin district (the phrase “Tenderloin district” when used in these requests means that area of San Francisco that is bounded on the north by Geary Street, on the east by Mason Street, on the south by Market Street, and on the west by Polk Street).
37. All documents that have as any part of their subject matter the distribution of “harm reduction kits” in the Tenderloin district.
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43. All documents that have as any part of their subject matter the opening or operation of a “wellness hub” in the Tenderloin district.

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44. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with Healthright 360 for the provision of any services in the Tenderloin district (from January 1, 2019 to the present).
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46. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with the Gubbio Project for the provision of any services in the Tenderloin district (from January 1, 2019 to the present).
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48. All records that have as any part of their subject matter the intended uses of 822 Geary Street, San Francisco, including, without limitation, any records relating to using that property as a “safe consumption site” or a “safe consumption site.”
49. All records that have as any part of their subject matter public or community outreach about the intended uses of 822 Geary Street, San Francisco, including, without limitation, any meetings, town halls or other events that were intended to notify the residents of the Tenderloin district about the intended uses of that property, and/or to obtain the reaction of residents to the intended uses.
50. All records that have as any part of their subject matter the acquisition of 645 Larkin Street, San Francisco by the San Francisco Community Health Center.
51. All records that have as any part of their subject matter the San Francisco Community Health Center’s intended uses of 645 Larkin Street, San Francisco.

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52. All records that have as any part of their subject matter reports of illegal narcotic sales at or out of the Cova Hotel (655 Ellis Street, San Francisco).

53. All records that have as any part of their subject matter reports of illegal narcotic use at or out of the Cova Hotel (655 Ellis Street, San Francisco).

We agree in advance to pay any reasonable charge for gathering and producing this documents that is allowed by law. We assume that your department is aware of its obligation to respond to these requests within ten calendar days.

Feel free to contact the undersigned for any reason.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'M.D. Davis', with a stylized flourish at the end.

MATTHEW D. DAVIS

MDD\MDD

Exhibit B



Matthew D. Davis
mdavis@walkuplawoffice.com

March 27, 2024

Via Electronic Mail and First Class Mail (dph.sunshine@sfdph.org)

San Francisco Department of Public Health
101 Grove St
San Francisco, CA 94102

Attention: Public Records Act Officer

Re: *Sunshine Ordinance/Public Records Act Request*

Dear Sir/Madam:

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MATTHEW D. DAVIS

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Exhibit C



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March 27, 2024

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440 Turk Street
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San Francisco Department of Public Health

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26. All documents that have as any part of their subject matter a proposed or actual supervised drug or narcotic site at any location in the Tenderloin District (as used in these requests, the “Tenderloin District” means that neighborhood in the City and County of San Francisco that is bounded on the north by Geary Street, on the east by Mason Street, on the south by Market Street, and on the west by Polk Street).
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36. Any records that refer to or reflect any discussion or analysis of the criminal penalties that can be imposed on a person who is involved in the operation of a site for the ingestion of illegal narcotics.
37. Any records that refer to or reflect any discussion or analysis of the criminal penalties that can be imposed on a person who is involved in the operation of a “safe consumption site.”
38. Any records that refer to or reflect any discussion or analysis of 21 U.S.C. § 856, including, without limitation, any memoranda or communication about this statute and the operation of a supervised drug injection site.
39. Any records that refer to or reflect any discussion or analysis of California Health & Safety Code § 11365, including, without limitation, any memoranda or communication about this statute and the operation of a supervised drug injection site.
40. Any records that refer to or reflect any discussion or analysis of California Health & Safety Code § 11366, including, without limitation, any memoranda or communication about this statute and the operation of a supervised drug injection site or “safe consumption site.”
41. All records that have as any part of their subject matter any communication with Healthright 360 about the Tenderloin Linkage Center.
42. All records that have as any part of their subject matter any communication with Healthright 360 about “safe consumption sites.”

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43. All records that have as any part of their subject matter any communication with Vitka Eisen about the Tenderloin Linkage Center.
44. All records that have as any part of their subject matter any communication with Vitka Eisen about “safe consumption sites.”
45. All documents that have as any part of their subject matter the opening or operation of a “wellness hub” in the Tenderloin District.
46. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with Healthright 360 for the provision of any services in the Tenderloin District (from January 1, 2019 to the present).
47. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with the Hospitality House for the provision of any services in the Tenderloin District (from January 1, 2019 to the present).
48. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with the Gubbio Project for the provision of any services in the Tenderloin District (from January 1, 2019 to the present).
49. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with the Filipino Community Development Corporation for the provision of any services in the Tenderloin District (from January 1, 2019 to the present).
50. All records that have as any part of their subject matter any funding provided to, or agreement with, or contract with the San Francisco Community Health Center for the provision of any services in the Tenderloin District (from January 1, 2019 to the present).
51. All records that have as any part of their subject matter the intended uses of 822 Geary Street, San Francisco, including, without limitation, any records relating to using that property as a “safe consumption site” or a “safe consumption site.”

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52. All records that have as any part of their subject matter public or community outreach about the intended uses of 822 Geary Street, San Francisco, including, without limitation, any meetings, town halls or other events that were intended to notify the residents of the Tenderloin district about the intended uses of that property, and/or to obtain the reaction of residents to the intended uses.
53. All records that have as any part of their subject matter the acquisition of 645 Larkin Street, San Francisco by the San Francisco Community Health Center.
54. All records that have as any part of their subject matter the San Francisco Community Health Center's intended uses of 645 Larkin Street, San Francisco.
55. All records that have as any part of their subject matter proposed operations of a resource center at 418-422 Turk Street, San Francisco.
56. All records that have as any part of their subject matter notification of residents of the Tenderloin District about proposed operations of a resource center at 418-422 Turk Street, San Francisco.

We agree in advance to pay any reasonable charge for gathering and producing this documents that is allowed by law. We assume that your department is aware of its obligation to respond to these requests within ten calendar days.

Feel free to contact the undersigned for any reason.

Very truly yours,



MATTHEW D. DAVIS

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